

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES RICE	:	CIVIL ACTION
<i>Petitioner</i>	:	
	:	
v.	:	NO. 22-5105
	:	
TOM MCGINLEY, <i>et al.</i> ,	:	
<i>Respondents</i>	:	

O R D E R

AND NOW this 27th day of November, upon consideration of Petitioner Charles Rice's ("Petitioner") counseled *Petition for Writ of Habeas Corpus* (the "Petition"), [ECF 1], the Commonwealth's response in support, [ECF 20], and Petitioner's Notice of Intent to forego reply, [ECF 21], and after a review of the Report and Recommendation issued by United States Magistrate Judge Carol Sandra Moore Wells, [ECF 22], it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**; ¹
2. The Petition for Writ of *Habeas Corpus* is **GRANTED** with respect to the claim that trial counsel rendered ineffective assistance by stipulating to evidence that provided a motive for the charged shootings; and
3. Within 180 days of the date of this Order, the Commonwealth shall either retry Petitioner or release him from custody.

BY THE COURT:

/s/ *Nitza I. Quiñones Alejandro*
NITZA I. QUIÑONES ALEJANDRO
Judge, United States District Court

¹ On October 23, 2023, the Magistrate Judge issued a Report and Recommendation ("R&R") in this matter, recommending that the petition be granted with respect to Petitioner's ineffective assistance of counsel claim based, in part, on the Commonwealth's concessions. [ECF 22]. In its response to the Petition, the Commonwealth conceded that Petitioner's "trial counsel performed ineffectively by stipulating to the admission of evidence that established [Petitioner's] motive to commit the shooting," [ECF 20, at p. 18], and that it "no longer has confidence that [Petitioner] received 'a trial whose result is reliable.'" [ECF 20 at p. 28]. In the R&R, the Magistrate Judge thoroughly addressed the ineffectiveness of trial counsel claim and found that Petitioner met his burden under *Strickland*. Considering the Commonwealth's concession and the Magistrate Judge's analysis, and after a thorough independent review of the record, this Court finds that Petitioner has shown a denial of a federal constitutional right, and that the Magistrate Judge did not commit any error in her analysis. Therefore, this Court approves and adopts the R&R in its entirety.